

BAKER & HOSTETLER LLP

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Attorneys for Defendants

GLORIA PAGAN,

Plaintiff,

vs.

SELDAT, INC., SELDAT DISTRIBUTION, INC.,
SELDAT STAFFING, LLC, SELECT STAFFING NYC,
LLC, ISMELDA ECHEVERRIA, DANIEL DADOUN,
AARON HUNTT,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-006985-17

Civil Action

**ANSWER AND DEFENSES
TO COMPLAINT AND JURY DEMAND**

Defendants Seldat, Inc. ("SI"), Seldat Distribution, Inc. ("SDI"), Seldat Staffing, LLC ("SS"), Select Staffing NYC, LLC ("SSN"), ("Ismelda Echeverria ("Defendant Echeverria"), Daniel Dadoun ("Defendant Dadoun"), Aaron Hunt ("Defendant Hunt") (collectively, "Defendants"), through their attorneys, for their Answer and Defenses to the Complaint filed by Plaintiff Gloria Pagan ("Plaintiff"), state as follows:

ANSWER TO "INTRODUCTION"

1. Defendants deny the allegations contained in Paragraph 1 of the Complaint, except acknowledge that Plaintiff is attempting to seek relief under the Conscientious Employee Protection Act ("CEPA") in this action.

ANSWER TO "PARTIES"

2. The allegations contained in Paragraph 2 of the Complaint are declarative statements that do not require a response from Defendants.

3. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 3 of the Complaint.

4. Defendants deny the allegations contained in Paragraph 4 of the Complaint.

5. Defendants admit the allegations in Paragraph 5 of the Complaint.

6. Defendants admit the allegations in Paragraph 6 of the Complaint.

7. Defendants deny the allegations in Paragraph 7 of the Complaint, except admit that Defendant Huntt is a Vice President employed by SDI.

8. Defendants deny the allegations contained in Paragraph 8 of the Complaint.

ANSWER TO "FACTUAL BACKGROUND"

9. The allegations contained in Paragraph 9 of the Complaint are declarative statements that do not require a response from Defendants.

10. Defendants deny the allegations in Paragraph 10 of the Complaint except admit that Plaintiff was hired by SDI on or about April 17, 2017.

11. Defendants admit the allegations contained in Paragraph 11 of the Complaint.

12. Defendants admit the allegations in Paragraph 12 of the Complaint.

13. Defendants deny the allegations contained in Paragraph 13 of the Complaint, except admit that Plaintiff worked as a Branch Manager for SDI in Perth Amboy, New Jersey.

14. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 14 of the Complaint.

15. Defendants deny the allegations contained in Paragraph 15 of the Complaint.

16. Defendants deny the allegations contained in Paragraph 16 of the Complaint.

17. Defendants deny the allegations contained in Paragraph 17 of the Complaint.

18. Defendants deny the allegations contained in Paragraph 18 of the Complaint.

19. Defendants deny the allegations contained in Paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in Paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in Paragraph 21 of the Complaint.

22. Defendants deny the allegations contained in Paragraph 22 of the Complaint.

23. Defendants deny the allegations contained in Paragraph 23 of the Complaint.

ANSWER TO “COUNT I”

24. Defendants restate and incorporate their responses to Paragraphs 1 through 23 as if fully set forth herein.

25. Defendants deny the allegations contained in Paragraph 25 of the Complaint.

26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.

27. Defendants deny the allegations contained in Paragraph 27 of the Complaint.

To the extent that the paragraph following Paragraph 27 beginning with “WHEREFORE,” including subparagraphs (a) – (g), requires a response, which Defendants contend it does not, Defendants deny that Plaintiff is entitled to the relief sought therein, or to any relief whatsoever.

AFFIRMATIVE AND OTHER DEFENSES

1. The Complaint is barred, in whole or in part, because it fails to state a claim upon which relief can be granted.

2. At all relevant times, Defendants acted in good faith and had reasonable grounds for believing their acts, if any, were not in violation of applicable law.

3. Plaintiff's claims are not actionable because she cannot establish a *prima facie* burden on her claims or rebut Defendants' legitimate, nondiscriminatory reasons for the actions about which Plaintiff complains, and/or prove pretext.

4. Plaintiff's claims are not actionable because Defendants had legitimate, non-discriminatory, and non-retaliatory job-related reasons for their actions regarding Plaintiff, having nothing whatsoever to do with any alleged complaints made by Plaintiff.

5. Any and all damages claimed by Plaintiff, whether compensatory, attorneys' fees, or otherwise, are subject to all applicable statutory caps, exclusions, and limitations.

6. Plaintiff is not entitled to attorney's fees pursuant to the claims presented in the Complaint.

7. Plaintiff is barred from recovering any damages, or any recovery must be reduced, by virtue of any failure to exercise reasonable diligence to mitigate her alleged damages.

8. Defendants are entitled to any and all offsets and/or set offs permissible by law.

9. To the extent Plaintiff is awarded any damages, which Defendants contend she should not be, such damages should be reduced by any compensation received by Plaintiff from any source and/or offered by Defendants since Plaintiff's last day worked.

10. Any emotional distress suffered or claimed to have been suffered by Plaintiff is not reasonable or justified under the circumstances.

11. Any complaints made by Plaintiff in good faith were immediately investigated by Defendants.

12. Plaintiff's retaliation claim is barred to the extent she did not engage in any protected activity.

13. Plaintiff's retaliation claim is barred to the extent that there is no causal connection between Plaintiff's participation in any alleged protected activity and any adverse employment action.

14. Defendants have not knowingly or intentionally waived any applicable defenses, and reserve the right to raise additional affirmative and other defenses that may subsequently become or appear applicable to Plaintiff's claims.

15. Defendants' investigation into the Complaint is ongoing, and Defendants further reserve the right to amend their Answer and/or Defenses accordingly.

WHEREFORE, Defendants respectfully request that the Court dismiss Plaintiff's Complaint in its entirety and ask that Defendants recover their reasonable costs and attorneys' fees in this action.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Amanda Van Hoose Garofalo is hereby designated trial counsel for this matter.

RULE 4:5-1 CERTIFICATION

The undersigned, Amanda Van Hoose Garofalo, certifies on behalf of the Defendants as follows:

1. I am the attorney for Defendants in the foregoing Answer and Defenses to Plaintiff's Complaint.

2. The matter in controversy is not the subject of any pending arbitration proceeding or other action and no arbitration proceeding is contemplated in the future.

3. I am aware of no other persons who should be joined in this matter.

4. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 28, 2018
New York, New York

BAKER & HOSTETLER LLP

s/Amanda Van Hoose Garofalo

Amanda Van Hoose Garofalo

Attorney ID: 015142010

Amy J. Traub (*pro hac vice motion forthcoming*)

Shawn N. Butte (*pro hac vice motion forthcoming*)

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on February 28, 2018, I sent a copy of the above Answer and Defenses to Plaintiff's Complaint to Plaintiff's attorney via ECF and first class mail at the following address:

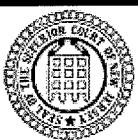
Karpf, Karpf, & Cerutti, PC
Christine E. Burke, Esq.
3331 Street Road, Suite 128
Two Greenwood Square
Bensalem, PA 19020

s/Amanda Van Hoose Garofalo
Amanda Van Hoose Garofalo

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		<small>FOR USE BY CLERK'S OFFICE ONLY</small> PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:
ATTORNEY / PRO SE NAME Amanda L. Van Hoose Garofalo		TELEPHONE NUMBER (212) 589-4610	COUNTY OF VENUE Middlesex
FIRM NAME (if applicable) Baker & Hostetler LLP		DOCKET NUMBER (when available) MID-L-006636-17	
OFFICE ADDRESS 45 Rockefeller Plaza, 14th Floor New York, New York 10111		DOCUMENT TYPE Answer	JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) Seldat, Inc. et. al. - All Defendants		CAPTION Gloria Pagan v. Seldat, Inc. et. al.	
CASE TYPE NUMBER (See reverse side for listing) 616	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, IS THAT RELATIONSHIP: <input checked="" type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE:			

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 292 PELVIC MESH/BARD |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 289 REGLAN | 601 ASBESTOS |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 623 PROPECIA |
| 291 PELVIC MESH/GYNECARE | 624 STRYKER LFIT CoCr V40 FEMORAL HEADS |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59